

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

|                                     |                                     |
|-------------------------------------|-------------------------------------|
| <hr/>                               | X                                   |
| CATHERINE RUBERY, Derivatively on   | :                                   |
| Behalf of E*TRADE FINANCIAL         | :                                   |
| CORPORATION,                        | :                                   |
|                                     | :                                   |
| Plaintiff,                          | :                                   |
|                                     | :                                   |
|                                     | :                                   |
| vs.                                 | :                                   |
|                                     | Civil Action No. 07 Civ. 8612 (JPO) |
| MITCHELL H. CAPLAN, ROBERT J.       | :                                   |
| SIMMONS, R. JARRETT LILIEN, DENNIS  | :                                   |
| E. WEBB, MICHAEL K. PARKS, LEWIS E. | : Electronically Filed              |
| RANDALL, DONNA L. WEAVER,           | :                                   |
| STEPHEN H. WILLARD, RONALD D.       | :                                   |
| FISHER, C. CATHLEEN RAFFAELI,       | :                                   |
| GEORGE A. HAYTER, and DARYL G.      | :                                   |
| BREWSTER,                           | :                                   |
|                                     | :                                   |
| Defendants,                         | :                                   |
|                                     | :                                   |
| -and-                               | :                                   |
|                                     | :                                   |
| E*TRADE FINANCIAL CORPORATION, a    | :                                   |
| Delaware corporation,               | :                                   |
|                                     | :                                   |
| Nominal Defendant.                  | :                                   |
|                                     | :                                   |
| <hr/>                               | X                                   |

**PLAINTIFFS' UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF SETTLEMENT**

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law in Support of Plaintiffs' Unopposed Motion for Preliminary Approval of Settlement, the Declaration of Craig W. Smith in Support, the Stipulation of Settlement submitted concurrently herewith, and any such additional evidence or argument as may be required by the Court, plaintiffs Marilyn Clark and Catherine Rubery, will and hereby do move this Court pursuant to Rule 23.1(c) of the Federal Rules of Civil Procedure, for entry of the [Proposed] Order Preliminarily Approving Settlement and Providing for Notice.

DATED: November 2, 2012

LAW OFFICES OF THOMAS G. AMON

/s/Thomas G. Amon

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Additional Counsel for Plaintiffs

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on November 2, 2012, a copy of the foregoing was filed electronically using the Court's CM/ECF system. Notice of this filing will be sent to all parties on the attached service list by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Thomas G. Amon  
THOMAS G. AMON (TGA 1515)

## Mailing Information for a Case 1:07-cv-08612-JPO

### Electronic Mail Notice List

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### Manual Notice List

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- (No manual recipients)